

IN THE UNITED STATES DISTRICT COURT  
FOR THE MIDDLE DISTRICT OF ALABAMA  
SOUTHERN DIVISION

RECEIVED

WILLIAM MEADOWS AND HIS WIFE )  
JEANIE MEADOWS, )  
PLAINTIFFS, )  
VS. )  
THE MEGA LIFE AND HEALTH )  
INSURANCE COMPANY, AND THEIR )  
AGENT, MICHAEL JOSHUA MILFORD, )  
AND A, B, C, AND X, Y, Z, )  
DEFENDANTS. )

2005 DEC 13 P 2:48

DEBRA P. HACKETT, CLK  
U.S. DISTRICT COURT  
MIDDLE DISTRICT ALA

CASE NO. 1:05-CV1091-M

---

**MOTION FOR REMAND AND COSTS**

COMES NOW THE PLAINTIFFS and respectfully request that this Honorable Court remand this action to the Circuit Court of Coffee County, Alabama, Elba Division. This Petition is due to be granted, as follows:

1. Defendant Mega's Notice of Removal is defective under 28 U.S.C. § 1446 because one of the individually named Defendants, Michael Joshua Milford, has not joined the removal.
2. Diversity in this cause does not exist under 28 U.S.C. § 1332 due to every Plaintiff not being diverse from every Defendant. Plaintiffs, William Meadows and wife, Jeanie Meadows, are citizens of the State of Alabama, as is Defendant Michael Joshua Milford.
3. Defendant Mega Life and Health Insurance Company is a citizen of the States of Texas and Oklahoma, and maintains a substantial presence in Alabama through a network in excess of one hundred agents.
4. Fraudulent joinder does not apply to Defendant Michael Joshua Milford because Defendant Milford was an agent for Defendant Mega Life and Health Insurance Company selling

Defendant's insurance policies in Alabama. The claims against Defendant Milford are valid State Law claims which are questions for a jury in the Circuit Court of Coffee County, Alabama.

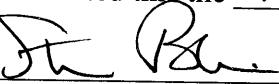
Additionally, Defendant Mega does not raise a valid argument pursuant to federal law which warrants removal.

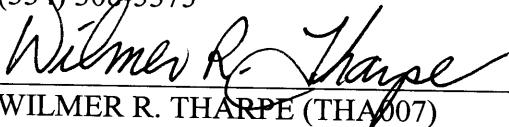
For all the foregoing reasons, Plaintiffs respectfully request the Court to remand this case to the Circuit Court of Coffee County, Alabama, Elba Division, on the grounds that: (1) the removal was improper for lack of unanimity among the Defendants, (2) lack of complete diversity of citizenship of all Plaintiffs and Defendants, and that, (3) Defendant Mega has not proven through clear and convincing evidence that Defendant Michael Joshua Milford is fraudulently or improperly joined in this cause.

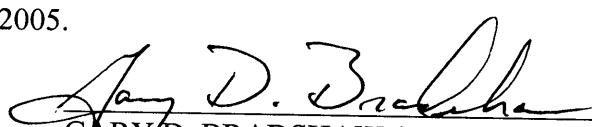
Plaintiffs hereby petition this Court for payment of just costs and any actual expenses, including attorney fees, incurred as a result of the removal under 28 U.S.C. § 1447(c).

For the reasons cited in this Motion and in the accompanying Memorandum of Law, Plaintiffs respectfully request this Court to remand this action to the Circuit Court of Coffee County Alabama, Elba Division.

Dated this the 13<sup>th</sup> day of December, 2005.

  
\_\_\_\_\_  
STEVE BLAIR (BLA045)  
Attorney for Plaintiffs  
Post Office Box 310843  
Enterprise, AL 36331-0843  
(334) 308-5375

  
\_\_\_\_\_  
WILMER R. THARPE (THA007)  
Attorney for Plaintiffs  
621 W. State Hwy. 92  
Newton, AL 36352-7935  
(334) 308-1650

  
\_\_\_\_\_  
GARY D. BRADSHAW (BRA074)  
Attorney for Plaintiffs  
Post Office Box 311412  
Enterprise, AL 36331-1412  
(334) 393-6439

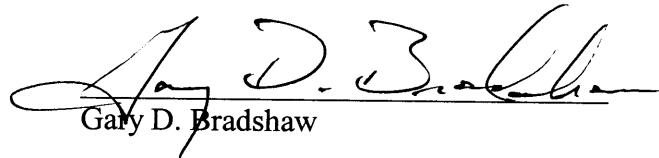
  
\_\_\_\_\_  
DWAIN D. HARTWICK (HAR222)  
Attorney for Plaintiffs  
Post Office Box 311526  
Enterprise, AL 36331-2236  
(334) 347-2236

**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing was sent via United States Postal Service, postage prepaid, on this the 13<sup>th</sup> day of December, 2005, to the following:

Mr. James Lampkin, Esq.  
Ms. Pamela A. Moore, Esq.  
Attorneys at Law  
One St. Louis Centre, Suite 5000  
Mobile, Alabama 36602

Mr. Michael Joshua Milford  
833 University Blvd., South  
Apt. 119  
Mobile, Alabama 36609



Gary D. Bradshaw